IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9299 OF 2003

Bholadasji Mandir .. Petitioner.
Vs.
Narbheram Shivji
Chavan & Others .. Respondents.

Ms.Sharvari Shailendra i/b Mr.P.S.Dani for the petitioner.
Ms.P.P.Tendulkar i/b Mr.M.S.Karnik for respondent no.7.

CORAM : D.B.BHOSALE, J.

DATED : 11TH OCTOBER, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent no.7.

2. Rule, returnable forthwith. By consent of the parties taken up for final hearing. Ms.Tendulkar, learned counsel waives service for respondent no.7.

3. The petitioner in this petition has impugned the order dated 23.9.2003 by which the application at Exhibit-28 under Order 6 Rule 17 of the Code of Civil Procedure has been rejected. I perused the order. The trial Court has rejected the application holding that the amendment will change the nature of the suit. I perused the plaint and in particular the title and verification clause thereof. It clearly indicates that the suit is filed by a trust through its sole trustee. By way of amendment the petitioners seek to amend the title, stating registration number of the

public trust, and introduce a paragraph 1-A. In paragraph (1-A) they have stated that the plaintiff is a registered public trust under the provisions of Bombay Public Trust Act and they have given its registration number. The amendment is opposed by defendant no.7 stating that the amendment prayed for is in the nature of filling the lacuna. The trial Court has rejected the amendment holding that it will change the nature of the suit. In my opinion, this finding is wrong and cannot be sustained. The amendment does not change the nature of the suit at all. The petitioner-plaintiff has only furnished further details by way of amendment. If the amendment is allowed no prejudice whatsoever will be caused to the defendants inasmuch as in the suit even an issues have not been framed so far. It is always open for the defendants to file additional written statement, if they so desire, if the amendment is allowed. In the circumstances the impugned order dated 23.9.2003 is quashed and set aside. The petitioner to carry out amendment within a period of two weeks from the date of receipt of this order. It is open for the respondents-defendants to file additional written statement if they so desire within four weeks from the date of carrying out the amendment. The writ petition is disposed of in aforesaid terms.

(D.B.Bhosale, J.)